

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 673 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed : NO  
to see the judgements? No.

2. To be referred to the Reporter or not? No. :

3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement? No.

4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder? No.

5. Whether it is to be circulated to the Civil Judge? : NO  
No.

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YOGINIBEN SURESHKUMAR DAVE

Versus

SURESHKUMAR NARMADASHANKER DAVE

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Appearance:

MR PK JANI for Petitioner

MR MEHUL SHARAD SHAH for Respondent No. 1

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CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 10/10/2000

ORAL JUDGEMENT

This revision application has been preferred  
against the order dated 26-4-2000 passed by the Civil  
Judge (SD), Patan on the application exh. 4 for interim  
alimony moved under Section 24 of the Hindu Marriage Act.

2. The trial Court has granted interim alimony of Rs.2,500/- p.m. and Rs.250/- towards the costs, to the respondent. That order has been challenged in this Revision Application before this Court.

3. Heard the learned counsel for the parties and perused the relevant material on record.

4. Respondent Sureshkumar Dave was an employee of the Gujarat Electricity Board. When he was on duty, he met with an accident wherein he sustained serious injuries and consequently he suffered 100% disability.

5. The respondent filed an application before the appropriate authority of the Gujarat Electricity Board for giving appointment on the suitable post to his wife on compassionate ground. The authority concerned after considering the facts and circumstances of the case, gave appointment to the wife of the respondent on compassionate ground. The authority concerned considering it as a special case, gave appointment to the petitioner in order to look after the serious illness of the respondent. The petitioner after getting the appointment on compassionate ground deserted the respondent and hence the respondent filed an application u/s 9 of the Hindu Marriage Act for restitution of conjugal rights and also filed an application u/s 24 of the said Act for interim alimony. The trial Court after going through the material on record, came to the conclusion that the respondent was entitled to get Rs.2,500/- p.m. towards interim alimony.

6. Learned counsel for the respondent produced the copy of the Medical Certificate along with the salary certificate showing that the petitioner has drawn salary of Rs.4,724/- p.m. for the month of July, 2000 after deduction of Rs.150/- as festival advance and Rs.311/towards insurance premium of L.I.C. policy. Though in view of the decision of this Court, the amount of L.I.C. policy and festival advance cannot be deducted for arriving at a finding with regard to income of a particular person. Thus, the petitioner is drawing salary of more than Rs.5000/- p.m. The medical certificate shows that due to accident the respondent has suffered 100% permanent disability and the petitioner wife of the respondent was appointed on compassionate ground to look after serious illness of the respondent. The petitioner deserted the respondent in a very pitiable and miserable condition, both financially and physically. The respondent has two daughters with him, while the

petitioner has only one daughter with her and that daughter is residing with her aunt (Maashi) and is not residing in the hostel as mentioned in the order.

7. Considering the facts and circumstances of the case, it appears that the Court below has not committed any error in awarding Rs.2,500/- p.m. towards interim alimony to the respondent.

8. The learned counsel for the petitioner could not point out any illegality, jurisdictional error or material irregularity committed by the Court below in passing the impugned order. I do not find any good ground calling for interference by this Court in the impugned in revisional jurisdiction u/s 115 of the C.P.C. Therefore, this revision application deserves to be dismissed. Accordingly, the present Revision Application is dismissed. Rule is discharged. with no order as to costs. Interim relief granted by this Court stands vacated.

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/JVSatwara